

REMARKS

The Applicants have studied the Office Action dated February 20, 2007, and have made amendments to the claims to more clearly and distinctly claim and particularly point out the subject matter which the Applicants regard as the invention. No new matter has been added. It is submitted that the application, as amended, is in condition for allowance. The Applicants have cancelled claims 16-18, 20, without prejudice, and added new claims 22 and 23. By virtue of this amendment, Claims 1-4, 6-9, 11-14, 19, and 21-23 are pending. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

Rejection under 35 U.S.C. §102(e) as being Anticipated by Miller

The Examiner rejected claims 1-2, 4, 6-7, 9, 11-12, 14 and 16-18 under 35 U.S.C. § 102(3) as being anticipated by *Miller et al.*, U.S. Patent No. 6,014,707, (hereinafter "Miller").

Independent Claims 1, 6 and 11

The Applicants have amended independent claims 1, 6 and 11 to more clearly define the presently claimed invention. The amendments to these claims will be described using amended independent method claim 1 as an example. Amended independent claim 1 has been amended to include the following steps:

accepting a user request for a specified data item at a requesting computer, the specified data item to be delivered in its entirety prior to being accessed;

accepting, at the requesting computer in response to accepting the user request for the specified data item, a user input speed setting, wherein the user input speed setting is not related to a speed that is associated with the specified data item;

generating, at the requesting computer in response to accepting the user input speed setting, a speed indication signal that comprises a maximum transmission rate to be used in transmitting the specified data item from the server to the requesting computer, wherein the maximum transmission rate is based upon the user input speed setting and is less

than the data rate of the data link and less than the data rate capacity of the requesting computer;

Support for these amendments is found in the specification at, for example, page 8, lines 12-22 and FIG. 6. Support for the amendments to the preambles of these independent claims is found in the specification at, for example, page 8, lines 11-26. Support for the amendment to the preamble of claim 11 is found in the specification at, for example, page 10, lines 24-27. No new matter has been added by these amendments. The Applicants assert that the prior art of record does not teach or suggest, when taken alone or in any combination, these additional limitations of the amended independent claims when considered in the context of the invention set forth by these independent claims when that invention is considered "as a whole."

In particular, "accepting, at the requesting computer in response to accepting the user request for the specified data item, a user input speed setting ..." and "generating, at the requesting computer in response to accepting the user input speed setting, a speed indication signal ..." are clearly not taught or suggested by the Miller reference. Furthermore, the Applicants assert that the present invention is directed towards solving a different problem than is addressed by the Miller reference and that modification of the Miller reference to incorporate these amended steps would not be consistent with the subject matter taught by the Miller reference. The Miller reference is directed towards compensating for network congestion or processing capacity limitations on computer nodes. See, Miller, column 5, lines 42-49 and column 6, lines 5-11. Data transmission controls used by the systems of Miller react to data transmission problems that are automatically detected by the processing of the client nodes. See, for example, Miller column 6, lines 4-10.

The above listed goals of Miller are not adaptable to, for example, "accepting a user input speed setting" as is set forth in the amended independent claims. The transmission speed used for a particular data item is adjusted in the Applicant's disclosure to accommodate a user preference to reserve communications bandwidth for communications of other data items. Specification, page 2, line 2 through page 3, line

Dependent Claim 2, 7, and 12

The Applicants have amended claims 2, 7 and 12 to more clearly define one aspect of the present invention and to conform to amendments to the independent claims from which they depend. No new matter has been added by these amendments

With respect to dependent claims 2, 7, and 12 and the Examiner's Response to Arguments related to the teaching of a "period" by Miller (as set forth on pages 6 and 7 of the current Office Action), the Applicants point out that the relevant claim limitation recites "determining, at the server in response to receiving the speed indication signal, a period." The Applicants point out that although the "period" as claimed may be inherently contained within the teachings of Miller, Miller fails to teach or suggest the step of determining that period as is set forth by these dependent claims.

Miller teaches a "predetermined delay" to be used by a transmitter or a client specified inter-PDU delay. Miller, column 3, lines 4-5 and column 10, lines 23-27. Miller does not teach "determining" the inter-PDU delay, and this inter-PDU delay is supplied by the client. The teachings of Miller with respect to limiting the transmission speed of data by the server are limited to receiving the maximum PDU size and minimum inter-PDU delay from the client and then directly using those quantities to transmit data packets. Miller, column 5, lines 37-48. The Applicants assert that no "determining" of the "period," which the Examiner's own remarks indicate is composed of two separate quantities, by the server is taught or suggested by the Miller reference. Therefore, the Applicants respectfully assert that the Miller reference does not teach the second limitation of dependent claims 2, 7 and 12.

Dependent Claims 4, 9, and 14

Furthermore, the Applicants note that dependent claims 2, 4, 7, 9, 12, and 14 depend

from amended independent claims 1, 6 and 11, respectively. As discussed above, amended independent claims 1, 6 and 11 distinguish over the cited references. Since dependent claims include all of the limitations of the independent claims from which they depend, Applicants further assert that, at least for the reasons discussed above, dependent claims 2, 4, 7, 9, 12, and 14 also distinguish over the cited prior art as well. Therefore, Applicants respectfully assert that the Examiner's rejection of claims 1, 2, 4, 6, 7, 9, 11, 12, and 14 under 35 U.S.C. §102(e) as being anticipated by Miller should be withdrawn.

**Rejection under 35 U.S.C. §103(a) as being Unpatentable over Miller
in view of Shapiro**

The Examiner rejected claims 3, 8, 13 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of *Shapiro et al.*, U.S. Patent No. 5,991,810, (hereinafter "Shapiro").

The Applicants note that dependent claims 3, 8, 13 and 21 depend from amended independent claims 1, 6 and 11, respectively. As discussed above, amended independent claims 1, 6 and 11 distinguish over the cited references. Since dependent claims include all of the limitations of the independent claims from which they depend, Applicants further assert that, at least for the reasons discussed above, dependent claims 3, 8, 13, and 21 also distinguish over the cited prior art as well. Therefore, Applicants respectfully assert that the Examiner's rejection of claims 3, 8, 13 and, 19 under 35 U.S.C. §103(a) should be withdrawn.

**Rejection under 35 U.S.C. §103(a) as being Unpatentable over Miller
in view of Mann**

The Examiner rejected claim 19 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of *Mann et al.*, U.S. Patent No. 5,167,035, (hereinafter "Mann").

The Applicants note that dependent claim 19 depends from amended independent claims 1 and that amended independent claim 1 distinguish over the cited references.

Since dependent claims include all of the limitations of the independent claims from which they depend, Applicants further assert that, at least for the reasons discussed above, dependent claim 19 also distinguishes over the cited prior art as well and that the Examiner's rejection of claim 19 under 35 U.S.C. §103(a) should be withdrawn.

NEW CLAIMS

The Applicants have added new claims 22-23. Support for new claims 22-23 is found in the specification at, for example, page 4, line 28 through page 5, line 5 and page 8, lines 11-22. No new matter has been added by these amendments.

CONCLUSION

The foregoing is submitted as full and complete response to the Official Action mailed February 20, 2007, and it is submitted that Claims 1-4, 6-9, 11-14, 19, and 21-23 are in condition for allowance. Reconsideration is requested and allowance of Claims 1-4, 6-9, 11-14, 19, and 21-23 is earnestly solicited.

The Commissioner is hereby authorized to change any fees that may be required or credit any overpayment to Deposit Account 50-1556.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, or the Examiner believes that there are any informalities which can be corrected by Examiner's amendment, a telephone call to the undersigned at (561) 989-9811 is respectfully solicited.

In view of the preceding discussion, it is submitted that the claims are in condition for allowance. Reconsideration, re-examination, and allowance of the claims are requested.

Respectfully submitted,

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